REMARKS

Applicant hereby traverses the rejections of record and requests reconsideration and withdrawal of such in view of the remarks contained herein. Paragraphs [0003] and [0011] of the specification have been amended. Claims 19-21, 23-27, 32, 34-36, 38-42, 47 and 49-51 have been amended. Claims 19-51 are pending in this application.

Interview Summary

The Applicant thanks the Examiner for his time at the in-person interview of March 8, 2007. While no agreement on the claims was reached, the Applicant and the Examiner discussed the current independent claims and the prior art under which the claims are rejected.

In addition, the Applicant and the Examiner discussed changing the word "media" in the claims to "content" to avoid any possible confusion in the scope of the claims that could be caused by the various meanings of the word "media." Applicant has amended claims [0003] and [0011] to reflect that the use of the term content in the claims has the same meaning intended by the Applicant as the previously used term "media." The amendments to the claims to change the term "media" to "content" is done only to improve the clarity of the claim language and was not done in view of the prior art and was not intended to change the scope of the claims.

Also, the Applicant and the Examiner discussed changing the term "fingerprint/landmark pairs" to "fingerprint and landmark pairs" to clarify that the term was used to require both fingerprints and landmarks and not one or the other. Again, the amendments to the claims to change the term "fingerprint/landmark pairs" to "fingerprint and landmark pairs" is done only to improve the clarity of the claim language and was not done in view of the prior art and was not intended to change the scope of the claims.

Rejection Under 35 U.S.C. § 102(b)

Claims 19-28, 31-43, and 46-51 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,128,625, issued to Yankowski (hereinafter "Yankowski").

It is well settled that to anticipate a claim, the reference must teach every element of the claim. *See* M.P.E.P. § 2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim." *See* M.P.E.P. § 2131; *citing In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *See* M.P.E.P 2131.

Claims 19, 35 and 50, as amended, each recite deriving fingerprint and landmark pairs from said characteristics, wherein landmarks from said fingerprint and landmark pairs are reproducible selected points in a segment of the content, and wherein fingerprints are values calculable from said characteristics of said content sample at their associated landmarks. Applicant respectfully asserts that Yankowski does not describe fingerprint and landmark pairs as required by the independent claims.

As previously described by the Applicant, Yankowski merely describes reading Table of Contents (TOC) data from a compact disc (CD). Each TOC entry includes the elapsed time of each tract and an absolute time for the POINT content (which is an absolute time defined by the beginning of tract 1 of the CD). *See* Yankowski at col. 5 lines 49-52. Further, Yankowski does not derive any of the information used to identify the CD's. Instead, Yankowski merely reads data (e.g., TOC information) and compares that data to a database in order to identify a compact disc. Part of the TOC information includes the elapsed time of each tract and an absolute time for the POINT content (e.g., the POINT value). *See* Yankowski at col. 5 lines 49-52.

Neither the fingerprint nor point value of Yankowski are a "landmark" as required by the independent claims where landmarks are reproducible selected points in a segment of the content. Nor are they "fingerprints" as required by the independent claims where fingerprints are values calculable from said characteristics of said content sample at their associated landmarks.

Again, the POINT values of Yankowski are merely a subset of the TOC content data. Yankowski's TOC data may be partially represented in terms of a POINT value. *See* Yankowski, Fig. 1. Further, Yankowski uses the word fingerprint to denote a collection of information sufficient to uniquely identify a CD and not a value calculable from said

characteristics of said content sample at their associated landmarks. In view of the above, Yankowski fails to teach every limitation of Applicant's claimed invention. Therefore, Applicant requests withdrawal of the rejection of record.

Claims 20-28, 31-34 depend from claim 19, claims 36-43, and 46-49 depend from claim 35, and claim 51 depends from claim 50. Each dependent claim inherits every limitation of the claim from which it depends. As shown above, Yankowski fails to teach every limitation of claims 19, 35, and 50. As such, claims 20-28, 31-34, 36-43, and 46-49 are patentable in their own right and at least through their dependent claims 19, 35, and 50. Therefore, Applicant requests withdrawal of the rejection of record.

Rejections Under 35 U.S.C. § 103(a)

Claims 19, 35, and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yankowski in view of Applicant's Admitted Prior Art (hereinafter "AAPA") and further in view of U.S. Patent No. 5,829,004, issued to Au (hereinafter "Au"). Claims 29, 30, 44, and 45 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yankowski in view of U.S. Patent No. 6,819,721 issued to Kobayashi et al. (hereinafter "Kobayashi").

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. Without conceding that the first or second criteria are satisfied, the Applicant respectfully asserts that the Examiner's rejection fails to satisfy the third criteria.

As shown above, Yankowski fails to teach or suggest every limitation of claims 19, 35, and 50. Moreover, neither AAPA or Au is relied upon to teach or suggest the missing limitations.

Applicant again respectfully requests that the Examiner define what he means by AAPA. The Examiner points to paragraph 65 as disclosing AAPA, but the Applicant would respectfully

note that there are only 36 paragraphs in the present application. Further, any reference to a co-pending application referenced by the current application cannot serve as a basis for a 35 U.S.C. 103 rejection, where there is common ownership. In the case at hand, any reference by the Examiner to co-pending applications are commonly owned by Landmark Digital Services, LLC.

Further, the Examiner makes no reference to Au in his rejection of claims and the Applicant is unable to determine what elements of the claims Au is cited as teaching.

In any event, the Examiner's proposed combination fails to teach or suggest every limitation of Applicant invention. Therefore, Applicant requests withdrawal of the rejection of record.

Claims 29 and 30 depend from claim 19 and claims 44 and 45 depend from claim 35, respectively. Each dependent claim inherits the limitations of the claim from which it depends. As shown above, Yankowski fails to teach or suggest every limitation of claims 19 and 35. Moreover, Kobayashi is not relied upon to teach or suggest the missing limitations. As such, claims 29, 30, 44, and 45 set forth limitations not taught or suggested by the Examiner's proposed combination and are patentable at least through their dependency on claims 19 and 35. Therefore, Applicant requests withdrawal of the rejection of record.

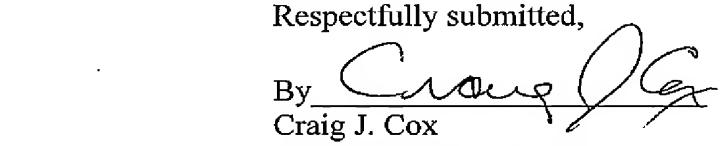
Conclusion

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 06-2380, under Order No. 69323/P004US/10511468 from which the undersigned is authorized to draw.

Dated: March 15, 2007

Respectfully submitted,

By 

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